IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 4787 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHANDRAVADAN A TAKTAWALA & 2 - Applicant(s)
Versus
HIRALAL K SONI & 1 - Respondent(s)

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Appearance :
MR AA KHAN for Applicant(s) : 1 - 3.MR VM DHOTRE for Applicant(s) : 1 - 3.
MR JK PARMAR for Respondent(s) : 1,
Mr I.M. Pandya, Addl.PUBLIC PROSECUTOR for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 14/03/2007

ORAL JUDGMENT

1. The petitioner has approached this Court under section 482 of the Code of Criminal Procedure,

1973 with the main prayer of quashing Criminal Case No. 5576 of 1992 pending in the court of learned Metropolitan Magistrate, Ahmedabad. In that criminal case, six persons including the petitioners herein are joined as accused persons and the respondent No.1, as the complainant, has mainly alleged offences punishable under sections 420, 406 and 114 of Indian Penal Code, 1860 on the basis of the allegation that the sum of Rs. 1,62,000-24 was not paid by the accused persons, even as the complainant had fulfilled his promises under the contract and executed the work according to the contract entered among the parties. After the aforesaid complaint and order dated 19.10.1992 below it to issue bailable warrants, further proceedings have been stayed by order dated 8.10.1997 of this Court.

2. After negotiation by learned counsel for the parties concerned, and on instructions of the original complainant, it was jointly submitted that the parties had amicably settled the dispute arising out of the execution of contract and the amount due to the original complainant. Petitioner No.1 has

agreed to pay to the original complainant the sum of Rs. 41,000/- on behalf of all the accused persons. It was stated, on instructions, that that sum of Rs. 41,000/- shall be paid to the original complainant by A/c. payee cheque in the name of the complainant on or before 31.3.2007 in full and final settlement of the dispute. On that understanding and subject to realisation of the cheque on or before 15.4.2007, the petition was requested to be allowed so as to quash the complaint and end the criminal proceedings pending in the trial court.

3. Accordingly, subject to the conditions as aforesaid, by joint request and without entering into merits, the petition is allowed and the complaint in Criminal Case No. 5576 of 1992 and proceedings thereof along with the orders made therein are hereby quashed. Rule is made absolute accordingly with no order as to costs.

sd/-
[D. H. Waghela, J.]

msp